

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE: Shawn C. Frank
Lychelle D. Frank
4007 Brighton Springs Ln
Katy, TX 77449

DEBTORS

§
§ CHAPTER 13
§ CASE NO. 24-32546-H1
§
§
§

CHAPTER 13 TRUSTEE'S MOTION TO DISMISS OR CONVERT

This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file and serve your response within 21 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing.

Represented parties should act through their attorney .

There will be a hearing on this motion on September 24, 2024 at 9:00 am in courtroom at the following address: U.S. BANKRUPTCY COURT, 515 RUSK, ROOM 404, 4TH FLOOR, HOUSTON, TX 77002-0000.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

David G. Peake, Chapter 13 Trustee moves the court to Dismiss or Convert the above-referenced case for the following reasons:

 X The Chapter 13 Plan must be amended to provide for the claims of the secured and priority Creditors in full within the terms of the Plan.

 X Payments due pursuant to U.S.C. § 1326(a)(1) have not been made.

 X Debtors failed to appear for the Meeting of Creditors and this constitutes a failure to appear in proper prosecution of the case for purposes of subsequent eligibility under 11 U.S.C. § 109.

 X The Debtors have not filed their Federal Income Tax return for the following years: 2021, 2022, & 2023. Therefore the Debtors are not able to meet the burden of proving that the Plan complies with 11 U.S.C. § 1322 (a) (2).

 The Debtors have caused unreasonable delay that is prejudicial to the Creditors .

 Other:

Wherefore, the Trustee requests that the case be dismissed or converted to Chapter 7 , whichever shall be determined in the best interest of creditors.

Dated: August 28, 2024

/s/ David G. Peake

David G. Peake
Standing Chapter 13 Trustee
9660 Hillcroft, Ste 430
Houston, TX 77096
court@peakech13trustee.com
(713) 283-5400

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Trustee's Motion to Dismiss Case has been served electronically on all parties requesting electronic notice and has been served on the listed parties (if listed) by mailing a copy of same to the address listed below via first class mail August 28 , 2024.

Electronically signed by
David G. Peake, Chapter 13 Trustee
9660 Hillcroft, Ste 430
Houston, TX 77096
court@peakech13trustee.com
(713) 283-5400

Debtor's Attorney of Record:
AMY B. AMES
RESOLVE LAW GROUP
801 TRAVIS ST., STE. 2101
HOUSTON, TX 77002

Debtor:
Shawn C. Frank
Lychelle D. Frank
4007 Brighton Springs Ln
Katy, TX 77449

AIS PORTFOLIO SERVICES LLC
ATTN: CAPITAL ONE AUTO FINANCE
A DIVISION OF CAPITAL ONE N.A. DEPARTMENT
4515 N SANTA FE AVE. DEPT. APS
OKALHOMA CITY, OK 73118

AMERICAN EXPRESS
16 GENERAL WARREN BLVD
MELVERN, PA 19355

AMERICREDIT FINANCIAL SERVICES
PO BOX 183853
ARLINGTON, TX 76096-3853

AMERICREDIT/GM FINANCIAL
PO BOX 183853
ARLINGTON, TX 76096

AMY B. AMES
RESOLVE LAW GROUP
801 TRAVIS ST., STE. 2101
HOUSTON, TX 77002

ASHLEY FUNDING SERVICES, LLC
C/O RESURGENT CAPITAL SERVICES
PO BOX 10587
GREENVILLE, SC 29603

BRIDGEWATER COMMUNITY ASSOCIATION
3023 N MASON ROAD
KATY, TX 77449

CAPITAL ONE AUTO FINANCE
A DIVISION OF CAPITAL ONE, N.A.
c/o AIS PORTFOLIO SERVICES, LP
PO BOX 4360
HOUSTON, TX 77210

CAPITAL ONE BANK NA
PO BOX 71083
CHARLOTTE, NC 28272

CAPITAL ONE NA
BY AMERICAN INFOSOURCE AS AGENT
PO BOX 71083
CHARLOTTE, NC 28272-1083

CORNERSTONE
PO BOX 60610
HARRISBURG, PA 17106

CREDENCE RESOURCE MANAGEMENT LLC
4222 TRINITY MILLS ROAD SUITE 260
DALLAS, TX 75287

CREDIT COLLECTION SERVICES
725 CANTON ST
NORWOOD, MA 02062

CREDIT ONE BANK
ATTN: BANKRUPTCY
6801 CIMARRON RD
LAS VEGAS, NV 89113

FIG LOANS
1301 E DEBBIE LN STE 102
MANSFIELD, TX 76063

GM FINANCIAL
PO BOX 183853
ARLINGTON, TX 76096

HARRIS COUNTY
PO BOX 4622
HOUSTON, TX 77210

HARRIS COUNTY MUD #71
PERDUE, BRANDON, FIELDER, COLLINS &
MOTT, L.L.P.
1235 NORTH LOOP WEST, SUITE 600
HOUSTON, TX 77008

IC SYSTEMS INC
PO BOX 64378
ST PAUL, MN 55164-0378

JEFFERSON CAPITAL SYSTEMS LLC
PO BOX 772813
CHICAGO, IL 60677-2813

MIDLAND CREDIT MANAGEMENT INC
PO BOX 2037
WARREN, MI 48090

PORTFOLIO RECOVERY ASSOCIATES LLC
PO BOX 12914
NORFOLK, VA 23541

TEXAS WORKFORCE COMMISSION
REGULATORY ENFORCEMENT DIV
101 E 15TH ST #556
AUSTIN, TX 78778

THE BANK OF NEW YORK MELLON
NEWREZ LLC
DBA SHELLPOINT MORTGAGE SERVICING
PO BOX 10826
GREENVILLE, SC 29603-0826

TMX CREDIT INC
2312 E TRINITY MILLS RD
CARROLLTON, TX 75006

INTERNAL REVENUE SERVICE***
P O BOX 7317
PHILADELPHIA, PA 19101-7317

LVNV FUNDING LLC
RESURGENT CAPITAL SERVICES
PO BOX 10587
GREENVILLE, SC 29603-0587

ONEMAIN FINANCIAL
PO BOX 3251
EVANSVILLE, IN 47731-3251

SYNERGETIC COMMS. INC.
5450 NW CENTRAL
HOUSTON, TX 77092

TEXAS WORKFORCE COMMISSION
101 E 15TH ST
AUSTIN, TX 78778-0001

TITLEMAX OF TEXAS, INC
15 BULL STREET, SUITE 200
SAVANNAH, GA 31401

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	CASE NO. 24-32546-H1
	§	
Shawn C. Frank	§	
Lychelle D. Frank	§	
	§	
	§	
DEBTORS	§	CHAPTER 13

ORDER OF DISMISSAL

1. On the chapter 13 trustee's motion, this case is dismissed. The Court's reasons for dismissal were stated on the record in open court.
2. The deadline for filing an application for an administrative expense in this case is set at 21 days following entry of this order. The deadline for filing a motion for allowance of a claim arising under § 507(b) in this case is also set at 21 days following entry of this order.
3. If an application for allowance of professional fees and expenses has previously been filed in this case, the applicant is not required to file a new application for allowance of administrative expenses under § 503, if the new application only seeks allowance of the same professional fees and expenses previously requested.
4. Any prior order directing an employer or other person to pay funds to the chapter 13 trustee is terminated. Any prior order authorizing an ACH or other means of electronic payment is terminated.
5. The Court finds good cause to direct the payment of funds held by the chapter 13 trustee at the time of entry of this Order as follows:
 - (a) First, the balance on hand in the Emergency Savings Fund will be paid to the Debtor(s);
 - (b) Second, to any unpaid chapter 13 trustee's statutory compensation;
 - (c) Third, the balance on hand in the Reserves for ad valorem taxes, to the holder of the claim secured by the senior security interest against the property for which the Reserves were established;
 - (d) Fourth, the balance in any other Reserve account to the Debtor;
 - (e) Fifth, to any unpaid payments mandated to be made by the Trustee under a prior Court order, including but not limited to any mandated adequate protection payments;
 - (f) Sixth, to pay any unpaid fees to Debtor(s)' attorneys and to reserve for any filed applications for which no order has yet been entered; and
 - (g) Seventh, to the Debtor(s).

Any party-in-interest objecting to the “for cause” distributions under this paragraph 5 must file an objection within 14 days of entry of this Order. The Chapter 13 Trustee will defer making distributions under this paragraph 5 until the next ordinary disbursement date following the later of (i) 22 days following entry of this Order; or (ii) entry of an order resolving any timely filed objection.

Dated: _____

MARVIN ISGUR
United States Bankruptcy Judge